W.O.I.L. ASSOCIATES

IBLA 85-133 Decided June 26, 1986

Appeal from a decision of the Alaska State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer AA-49639.

Affirmed.

1. Alaska Native Claims Settlement Act: Conveyances: Cemetery Sites and Historical Places

   Applications by regional corporations for fee title to historical places pursuant to 43 U.S.C. § 1613(h)(1) (1982) segregate the land from appropriation under the public land laws, including the mining and mineral leasing laws.

2. Oil and Gas Leases: Applications: Six-mile Square Rule
   BLM properly rejects a noncompetitive oil and gas lease offer which does not comply with the requirements of 43 CFR 3110.1-3(b) that lands in an offer be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions.

APPEARANCES: Ted A. Howard, Dallas, Texas, for W.O.I.L. Associates.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

W.O.I.L. Associates has appealed from an October 16, 1984, decision of the Alaska State Office, Bureau of Land Management (BLM), rejecting its over-the-counter oil and gas lease offer AA-49639. The offer was filed with BLM on April 16, 1984, for secs. 20, 29, and 32, T. 6 S., R. 9 W., Kateel River Meridian; secs. 6 and 7, T. 7 S., R. 9 W., Kateel River Meridian; and secs. 7 and 17, T. 7 S., R. 13 W., Kateel River Meridian, totaling approximately 4,480 acres. BLM's decision stated that the offer was rejected in its entirety because the lands described therein were not within a 6-mile square or an area of 6 surveyed sections in length and width as required by 43 CFR 3110.1-3(b). In addition, BLM rejected approximately 194.5 acres because they were not open to mineral leasing.

Appellant raises a number of arguments in its statement of reasons. Since these arguments generally concern the application of the cited regulation to the lease offer, they are best responded to by reviewing the fate of the offer under the regulation.

[1] Most of the lands in appellant's lease offer were among millions of acres reopened for mineral leasing and the location of mining claims as of November 9, 1983, by Public Land Order No. (PLO) 6477, published at 43 FR 45395 (Oct. 5, 1983). The land descriptions contained in the published restoration order, however, explicitly omit portions of sec. 29, T. 6 S., R. 9 W., Kateel River Meridian, and sec. 7, T. 7 S., R. 9 W., Kateel River Meridian. The master title plats for the townships show that the omitted portions are withdrawn under Alaska Native regional corporation selection applications for historical places. Applications by regional corporations for fee title to historical places pursuant to 43 U.S.C. § 1613(h)(1) (1982) segregate the land from appropriation under the public land laws, including the mining and mineral leasing laws. See 43 CFR 2653.2(d). Among the provisions of PLO 6477 is the restriction that: "No lands are opened by this order which are * * * the subject of prior withdrawals or appropriations still in effect." 48 FR 45400 (Oct. 5, 1983). Thus, BLM properly rejected appellant's offer to lease the withdrawn areas.

[2] BLM's decision also rejected appellant's lease offer in its entirely because it did not conform to the requirements of 43 CFR 3110.1-3(b). As promulgated, and in its current form, the regulation states: "The lands in an offer or parcel shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions." 48 FR 33676 (July 22, 1983); 43 CFR 3110.1-3(b). Appellant argues that this language is vague and misleading. While we do not agree (see generally Excelsior Exploration Corp., 91 IBLA 76 (1986)), we will not address the argument because even if the interpretation putatively suggested by appellant were correct, appellant's offer would not be saved. The fatal defect in appellant's offer is obvious in the land descriptions previously stated. Because a standard township is 6 miles wide, at least 18 miles must separate lands in T. 7 S., R. 9 W., Kateel River Meridian, from those in T. 7 S., R. 13 W., Kateel River Meridian. Separated by 18 miles, the lands in the two townships cannot be contained in an area 6 miles square. The regulation requires lands in an offer to lie within such an area, save for one exception not relevant herein, and BLM properly rejects an offer which does not meet the requirement. James M. Chudnow, 79 IBLA 1 (1984); Vester Songer, 69 IBLA (1982); Richard W. Rowe, 69 IBLA 135 (1982).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:
Franklin D. Arness
Administrative Judge

Bruce R. Harris
Administrative Judge.